

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 17219
[Redacted])	
Petitioners.)	DECISION
)	
)	

On September 20, 2002, the staff of the Income Tax Audit Bureau of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers), proposing income tax, penalty, and interest for the taxable year 1997 in the total amount of \$1,280.

On November 18, 2002, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but rather submitted additional information for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The Income Tax Audit Bureau (Bureau) received information that showed the taxpayers sold real property in Idaho in 1997. The Bureau researched the Tax Commission's records and found the taxpayers did not file an Idaho individual income tax return for the taxable year 1997. Idaho Code section 63-3026A(3)(ii) states that income shall be considered derived from or relating to sources within Idaho when such income is attributable to or resulting from the ownership or disposition of any interest in real or tangible personal property located in Idaho.

The Bureau sent the taxpayers letters asking them about the sale of the Idaho property and their requirement to file an Idaho income tax return. The taxpayers responded with a copy of their federal income tax return, which the Bureau reviewed and determined the sale was not reported. The taxpayers provided the Bureau with additional information that the Bureau used to determine

the taxpayers' Idaho income tax liability. The Bureau sent the taxpayers a Notice of Deficiency Determination, which the taxpayers protested.

The taxpayers provided the Bureau with additional information and documentation. The Bureau reviewed the information and modified its determination of the taxpayers' Idaho tax. The Bureau sent a modified report to the taxpayers but the taxpayers did not respond. Therefore, the Bureau referred the matter for administrative review.

The Tax Commission sent the taxpayers a letter giving them two options for having the Notice of Deficiency Determination redetermined. The taxpayers chose to submit documentation for the Tax Commission to consider. The documentation the taxpayers provided was a copy of the warranty deed for the property when they acquired it. The Tax Commission reviewed the file and all the documentation. The Tax Commission found the modifications the Bureau made to its original determination correct and appropriate.

The Bureau's determination did not allow the taxpayers the Idaho capital gains deduction. The Bureau's reason was that the taxpayers did not provide documentation that established the length of time they owned the property. However, the taxpayers did provide that documentation to the Tax Commission. The taxpayers provided a copy of a warranty deed that showed the taxpayers held the property for over ten years. Since the property was located in Idaho and the taxpayers held it over five years, the taxpayers were entitled to the Idaho capital gains deduction. Therefore, the Tax Commission allowed the Idaho capital gains deduction.

With the subtraction of the capital gains deduction, the taxpayers' Idaho taxable income is in the negative. Seeing that the taxpayers' have no Idaho taxable income and therefore no Idaho tax liability, the Tax Commission decided the Notice of Deficiency Determination should be cancelled.

WHEREFORE, the Notice of Deficiency Determination dated September 20, 2002, is hereby CANCELLED.

DATED this _____ day of _____, 2003.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2003, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]
